

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

CARL CHAVON MOSLEY,

Plaintiff,

v.

**Civ. Action No. 1:20-CV-142
(Kleeh)**

JERRY PRITT,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 8]

On July 22, 2020, the pro se Plaintiff, Carl Chavon Mosley ("Plaintiff"), an inmate at Huttonsville Correctional Center ("HCC"), filed a complaint in this action pursuant to 42 U.S.C. § 1983. Plaintiff argues that an HCC staff member used racial slurs in reference to him, in violation of his rights under the United States Constitution.

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi for initial review. On July 29, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the Complaint with prejudice.

The R&R also informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such

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objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." The docket reflects that Plaintiff accepted service of the R&R on August 3, 2020. See ECF No. 9. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 8]. Plaintiff is **DIRECTED** to disregard the Court's Notice of Deficient Pleading [ECF No. 6]. Plaintiff's motion for initial

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review [ECF No. 2] and motion to proceed in forma pauperis [ECF No. 3] are **DENIED AS MOOT**. The Complaint is **DISMISSED WITH PREJUDICE**. The Court further **ORDERS** that this matter be **STRICKEN** from the Court's active docket and **DIRECTS** the Clerk to enter judgment in favor of Defendant.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to the pro se Plaintiff via certified mail, return receipt requested.

DATED: August 26, 2020

/s/ Thomas S. Kleeh

THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE